

§ 990.230

24 CFR Ch. IX (4–1–11 Edition)

shall have its operating subsidy reduced as a result of this formula, the PHA will be subject to a transition policy as indicated in § 990.230. If the difference between these formulas indicates that a PHA will have its operating subsidy increased as a result of this formula, the PHA will be subject to the transition policy as indicated in § 990.235.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

§ 990.230 PHAs that will experience a subsidy reduction.

(a) For PHAs that will experience a reduction in their operating subsidy, as determined in § 990.225, such reductions will have a limit of:

(1) 5 percent of the difference between the two funding levels in the first year of implementation of the formula contained in this part;

(2) 24 percent of the difference between the two funding levels in the second year of implementation of the formula contained in this part;

(3) 43 percent of the difference between the two levels in the third year of implementation of the formula contained in this part;

(4) 62 percent of the difference between the two levels in the fourth year of implementation of the formula contained in this part; and

(5) 81 percent of the difference between the two levels in the fifth year of implementation of the formula contained in this part.

(b) The full amount of the reduction in the operating subsidy level shall be realized in the sixth year of implementation of the formula contained in this part.

(c) For example, a PHA has a subsidy reduction from \$1 million, under the formula in effect prior to implementation of the formula contained in this part, to \$900,000, under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million – \$900,000 = \$100,000). In the first year, the subsidy reduction would be limited to \$5,000 (5 percent of the difference). Thus, the PHA would receive an operating subsidy amount pursuant to this rule plus a transition-funding amount of \$95,000 (the \$100,000 difference between the two subsidy amounts minus the \$5,000 reduction limit).

(d) If a PHA can demonstrate a successful conversion to the asset management requirements of subpart H of this part, as determined under paragraph (f) of this section, HUD will discontinue the reduction at the PHA's next subsidy calculation following such demonstration, as reflected in the schedule in paragraph (e) of this section, notwithstanding § 990.290(c).

(e) The schedule for successful demonstration of conversion to asset management for discontinuation of PHA subsidy reduction is reflected in the table below:

STOP-LOSS DEMONSTRATION TIME LINE AND EFFECTIVE DATES

Demonstration date by	Applications due	Reduction stopped at	Reduction effective for
September 30, 2007	October 15, 2007	5 percent of the PUM difference.	Calendar Year 2007 and thereafter.
April 1, 2008	April 15, 2008	24 percent of the PUM difference.	Calendar Year 2008 and thereafter.
October 1, 2008	October 15, 2008	43 percent of the PUM difference.	Calendar Year 2009 and thereafter.
October 1, 2009	October 15, 2009	62 percent of the PUM difference.	Calendar Year 2010 and thereafter.
October 1, 2010	October 15, 2010	81 percent of the PUM difference.	Calendar Year 2011 and thereafter.

(f)(1) For purposes of this section, compliance with the asset management requirements of subpart H of this part will be based on an independent assessment conducted by a HUD-approved professional familiar with property

management practices in the region or state in which the PHA is located.

(2) A PHA must select from a list of HUD-approved professionals to conduct the independent assessment. The professional review and recommendation

will then be forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination of compliance with the asset management requirements of subpart H of this part.

(3) Upon completion of the independent assessment, the assessor shall conduct an exit conference with the PHA. In response to the exit conference, the PHA may submit a management response and other pertinent information (including, but not limited to, an additional assessment procured at the PHAs' own expense) within ten working days of the exit conference to be included in the report submitted to HUD.

(4) In the event that HUD is unable to produce a list of independent assessors on a timely basis, the PHA may submit its own demonstration of a successful conversion to asset management directly to HUD for determination of compliance.

(5) The Assistant Secretary for Public and Indian Housing (or designee) shall consider all information submitted and respond with a final determination of compliance within 60 days of the independent assessor's report being submitted to HUD.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005, as amended at 72 FR 45874, Aug. 15, 2007]

§ 990.235 PHAs that will experience a subsidy increase.

(a) For PHAs that will experience a gain in their operating subsidy, as determined in § 990.225, such increases will have a limit of 50 percent of the difference between the two funding levels in the first year following implementation of the formula contained in this part.

(b) The full amount of the increase in the operating subsidy level shall be realized in the second year following implementation of the formula contained in this part.

(c) For example, a PHA's subsidy increased from \$900,000 under the formula in effect prior to implementation of the formula contained in this part to \$1 million under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million - \$900,000 = \$100,000). In the

first year, the subsidy increase would be limited to \$50,000 (50 percent of the difference). Thus, in this example the PHA will receive the operating subsidy amount of this rule minus a transition-funding amount of \$50,000 (the \$100,000 difference between the two subsidy amounts minus the \$50,000 transition amount).

(d) The schedule for a PHA whose subsidy would be increased is reflected in the table below.

Funding period	Increase limited to
Year 1	50 percent of the difference.
Year 2	Full increase reached.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

Subpart G—Appeals

§ 990.240 General.

(a) PHAs will be provided opportunities for appeals. HUD will provide up to a two percent hold-back of the Operating Fund appropriation for FY 2006 and FY 2007. HUD will use the hold-back amount to fund appeals that are filed during each of these fiscal years. Hold-back funds not utilized will be added back to the formula within each of the affected fiscal years.

(b) Appeals are voluntary and must cover an entire portfolio, not single projects. However, the Assistant Secretary for Public and Indian Housing (or designee) has the discretion to accept appeals of less than an entire portfolio for PHAs with greater than 5,000 public housing units.

§ 990.245 Types of appeals.

(a) *Streamlined appeal.* This appeal would demonstrate that the application of a specific Operating Fund formula component has a blatant and objective flaw.

(b) *Appeal of formula income for economic hardship.* After a PHA's formula income has been frozen, the PHA can appeal to have its formula income adjusted to reflect a severe local economic hardship that is impacting the PHA's ability to maintain rental and other revenue.